(3)

Supreme Court, U.S.
FILED
SEP 25 1995
CLERK

No. 95-163

In the
Supreme Court of the United States
October Term, 1995

ZONING BOARD OF ADJUSTMENT FOR THE TOWNSHIP OF WEST AMWELL; HARRY K. RUSH; RAYMOND G. LINDBLAD; CHARLES A. BRITTON; GARY W. BLEACHER; DAVID L. DONDERO; STEWART PALILONIS; ROBERT FULPER, JR.; WERNER J. HOFF; EUGENE J. VENETTONE; BARBARA GILL; JOSEPH HELEWA,
Petitioners,

v.

ALFRED DEBLASIO, Respondent.

On Writ of Certiorari To the United States Court of Appeals For the Third Circuit

BRIEF OF THE STATES OF NEW JERSEY, et al. AS AMICI CURIAE IN SUPPORT OF PETITIONERS

DEBORAH T. PORITZ
ATTORNEY GENERAL OF NEW JERSEY
R.J. Hughes Justice Complex
CN 112
Trenton, New Jersey 08625
(609) 633-8119

MARY C. JACOBSON
Assistant Attorney General

VALERIE HAYNES
* RACHEL HOROWITZ
Deputy Attorneys General, On the Brief
* Counsel of Record [additional counsel listed on inside cover]

20 pp

Honorable Charles F. C. Ruff
District of Columbia
Corporation Counsel
441 4th Street NW
Washington, D.C. 20001

Honorable Calvin E. Holloway, Sr.
Attorney General of Guam
Judicial Center Building
120 West O'Brien Drive
Agana, Guam 96910

Honoarble Carla J. Stovall
Attorney General of Kansas
Judicial Building
301 West 10th Street
Topeka, Kansas 66612-1597

Honorable Andrew Ketterer
Attorney General of Maine
6 State House Station
Augusta, Maine 04333

Honorable Mike Moore
Attorney General of Mississippi
Department of Justice
Post Office Box 220
Jackson, Mississippi 39205-0220

Honorable Joseph P. Mazurek
Attorney General of Montana
Justice Building
P.O. Box 201401
Helena, Montana 59620-1401

Honorable Tom Udall
Attorney General of New Mexico
P.O. Drawer 1508
Santa Fe, New Mexico 87504

Honorable Betty D. Montgomery
Attorney General of Ohio
State Office Tower
30 East Broad Street
Columbus, Ohio 43266-0410

Honorable Walter W. Cohen
Acting Attorney General of Pennsylvania
Office of the Attorney General
16th Floor, Strawberry Square
Harrisburg, Pennsylvania 17120

Honorable Mark Barnett
Attorney General of South Dakota
500 East Capitol
Pierre, South Dakota 57501-5070

Honorable Jeffrey L. Amestoy
Attorney General of Vermont
109 State Street
Montpelier, Vermont 05609-1001

TABLE OF CONTENTS

PAGE

INTEREST OF THE AMICI CURIAE 1

ARGUMENT

I. THE THIRD CIRCUIT'S UNWARRANTED EXPANSION OF FOURTEENTH AMENDMENT SUBSTANTIVE DUE PROCESS JURISDICTION IN LAND USE CASES PRESENTS AN ISSUE REQUIRING RESOLUTION BY THE COURT. 3

A. The Standard Set By The Third Circuit In This Case Is Equivalent To No Standard At All And Will Result In Unnecessary And Duplicative Federal Litigation Of Ordinary Land Use Disputes. 3

B. The Approach to Substantive Due Process Taken by the Third Circuit Completely Disregards this Court's Jurisprudence. 9

PAGE

C. The Third Circuit Erred In Allowing a Property Owner to Mount a Substantive Due Process Challenge to a Land Use Decision Without Pursuing Available State Remedies. 12

CONCLUSION 14

CASES CITED

Albright v. Oliver, __ U.S. __, 114 S.Ct. 807 (1994) 10, 11

Bello v. Walker, 840 F.2d 1124 (3rd Cir. 1988) 7

Board of Regents v. Roth, 408 U.S. 564 (1972) . . . 9

Bressman v. Gash, 131 N.J. 517, 621 A. 2d 476 (1993) 8

Coniston Corp. v. Village of Hoffman Estates, 844 F. 2d 461 (7th Cir. 1988) 9

Corn v. Lauderdale Lakes, 997 F.2d 1369 (11th Cir. 1993) 8

DeBlasio v. Zoning Board of Adjustment for the Township of West Amwell, 53 F.3d 592 (3d Cir. 1995) 5-7, 11

Hartland Sportsman's Club v. Delafield, 35 F. 3d 1198 (7th Cir. 1994) 12

Hewitt v. Helms, 459 U.S. 460 (1983) 10

PAGE

Licari v. Ferruzzi, 22 F.3d 344 (1st Cir. 1994) 13

Mangels v. Pena, 789 F. 2d 836 (10th Cir. 1986) . . . 6

Mid-American Waste Systems, Inc. v. Gary,
49 F.3d 286 (7th Cir. 1995) 6

Motor Vehicle Manufacturers Association
v. State Farm Mutual Automobile Insurance Co.,
463 U.S. 29 (1983) 8

Nestor Colon Medina & Sucesores, Inc. v. Custodio,
964 F.2d 32 (1st Cir. 1992) 11

Niederhiser v. Borough of Berwick, 840 F.2d 213
(3d Cir. 1988) 7

Orange Lake Associates, Inc. v. Kirkpatrick,
21 F.3d 1214 (2d Cir. 1994) 12

Parratt v. Taylor, 451 U.S. 527 (1981) 12, 13

Paul v. Davis, 424 U.S. 693 (1975) 10

Regents of University of Michigan v. Ewing,
474 U.S. 214 (1985) 6

Reich v. Beharry, 883 F.2d 239 (3rd Cir. 1989) 6

Reno v. Flores, __ U.S. ___, 113 S. Ct. 1439,
123 L. Ed. 2d 1 (1993) 6

RRI Realty Corp. v. Southampton,
870 F. 2d 911 (2d Cir. 1989),
cert. denied 493 U.S. 893 (1989) 9

PAGE

Sandin v. Conner, __ U.S. __, 115 S.Ct. 2293 (1995) 9, 10

Village of Belle Terre v. Boraas, 416 U.S. 1 (1974) 8

Williamson County Planning Commission v. Hamilton Bank, 473 U.S. 172 (1985) 12

Yale Auto Parts, Inc. v. Johnson, 758 F. 2d 54 (2d Cir. 1985) 9

COURT RULE CITED

New Jersey Court Rule 4:69-1 5

No. 95-163

In the

Supreme Court of the United States

October Term, 1995

ZONING BOARD OF ADJUSTMENT FOR THE TOWNSHIP OF WEST AMWELL; HARRY K. RUSH; RAYMOND G. LINDBLAD; CHARLES A. BRITTON; GARY W. BLEACHER; DAVID L. DONDERO; STEWART PALILONIS; ROBERT FULPER, JR.; WERNER J. HOFF; EUGENE J. VENETTONE; BARBARA GILL; JOSEPH HELEWA,

Petitioners,

v.

ALFRED DEBLASIO,

Respondent.

On Petition for Writ of Certiorari To The United States Court of Appeals For The Third Court

BRIEF OF THE STATES OF NEW JERSEY, et al. AS AMICI CURIAE IN SUPPORT OF PETITIONERS

INTEREST OF THE AMICI CURIAE

The Third Circuit's decision in this case will allow virtually any property owner who is aggrieved by a state or local land use decision to mount a federal claim alleging a violation of substantive due process, regardless of whether the property owner has pursued available relief under state law or had any reasonable expectation of a favorable land

use decision. This result is of concern to amici states because like the local zoning board petitioners here, state agencies also regulate land use and engage in land use planning. For example, in New Jersey state agencies regulate development in specified regions, such as the Hackensack Meadowlands, the Pinelands and the coastal zone, or regulate development on certain categories of land, such as wetlands or flood hazard areas. As is the case with applicants for local zoning permits, applicants for state permits to develop land have a full panoply of state review procedures available to them. These procedures are well established and annually resolve substantial numbers of land use disputes.

Notwithstanding the widespread use and availability of these state remedial procedures, the Third Circuit has now held that a property owner need only allege that a decision limiting an intended land use was reached arbitrarily or irrationally to state a substantive due process claim. Thus, the Circuit has established a standard which will allow virtually any state or local land use dispute to also become a federal case.

By this holding, the Third Circuit has crafted a course sharply at variance with other Circuits and out of step with recent decisions of the Court in other due process cases. If the standard enunciated by the Third Circuit in this case is allowed to stand, amici will be faced with the likelihood of sharply escalating costs of litigation in even the most routine land use matters, with no corresponding benefit to the public health, safety or welfare. In addition, land use decisions made by amici on a daily basis will become subject to potential review by federal courts under the nebulous standards of substantive due process despite those courts' lack of familiarity with local land use issues and the availability of state remedies, and state and local development authorities will be forced to make decisions

knowing that if they do not grant an application, they may become subject to a federal lawsuit for damages.

ARGUMENT

I. THE THIRD CIRCUIT'S UNWARRANTED EXPANSION OF FOURTEENTH AMENDMENT SUBSTANTIVE DUE PROCESS JURISDICTION IN LAND USE CASES PRESENTS AN ISSUE REQUIRING RESOLUTION BY THE COURT.

A. The Standard Set By The Third Circuit In This Case Is Equivalent To No Standard At All And Will Result In Unnecessary And Duplicative Federal Litigation Of Ordinary Land Use Disputes.

The petitioners in this case seek review of the Third Circuit's determination that in the context of land use regulation, a land-owning plaintiff states a substantive due process claim by alleging that a decision limiting an intended land use was reached arbitrarily or irrationally. This standard is so broad that it amounts to no standard at all. If it is not modified, virtually every state and local land use dispute will state a substantive due process claim entitling the owner to bring a federal lawsuit seeking damages against state and local officials.

Although the Third Circuit set an extraordinarily broad standard in this case, the land use dispute to which it applied its "standard" was hardly extraordinary. The dispute involved a nonconforming use in a residential zone

on property owned by respondent DeBlasio, and DeBlasio's after-the-fact allegation that one member of the municipal Zoning Board of Adjustment improperly participated in an action denying a variance. The property was zoned for three acre residential use when DeBlasio purchased it; however, prior to the adoption of the zoning ordinance the property had contained a one-man auto body shop and so was exempted from the zoning restriction. After DeBlasio took title he applied for a variance to use the site for storage of drywall construction materials and as the principal place for a drywall business. That variance request was denied and DeBlasio did not appeal. Several years later, DeBlasio leased the property to Peter Holmes. Holmes used the property to conduct a business wholesaling vehicle batteries. He started as a one-man, one-truck operation and expanded over a ten-year period to an operation with seven full-time employees, two part-time employees and five tractor-trailer trucks distributing approximately 30,000 batteries per year.

Following a neighbor's complaint to the municipality, DeBlasio applied to the local zoning board of adjustment ("ZBA") for an interpretation of the zoning status of the property or, in the alternative, for a use variance to continue the present use. The ZBA unanimously determined that Holmes' use violated the ordinance and denied DeBlasio's request for a variance to continue the current use; the voting members of the Board included one member whom DeBlasio later alleged had a conflict of interest. DeBlasio was given six months to cease the use.

Approximately eight months later (but without having complied with the requirement to cease) DeBlasio filed a complaint in federal court alleging, among other things, violations under 42 U.S.C. §§ 1983 and 1985 of his due process rights pursuant to the Fifth and Fourteenth Amendments to the United States Constitution. DeBlasio did not file an appeal of the ZBA decision in state court

before bringing his federal claims, even though he had an automatic right to do so under state law. New Jersey Court Rule 4:69-1.[1]

The District Court granted the ZBA's motion for summary judgment on all of DeBlasio's federal claims, including claims alleging a taking of the property without just compensation and a violation of procedural due process. The Third Circuit affirmed the dismissal of the takings and procedural due process claims, but reversed the District Court's grant of summary judgment on DeBlasio's state tort claim and substantive due process claim.

At the outset of its discussion of DeBlasio's substantive due process claim the Third Circuit complained of the "paucity of Supreme Court guidance." DeBlasio v. Zoning Board of Adjustment for the Township of West Amwell, 53 F.3d 592, 598 (3d Cir. 1995). It then reviewed prior Third Circuit decisions considering which property interests were protected by the concept of substantive due process and ultimately concluded:

> [I]n the context of land use regulation, that is, in situations where the governmental decision in question impinges upon a landowner's use and enjoyment of property, a land-owning plaintiff states a substantive due process claim where he or she alleges that the decision limiting the intended land use was arbitrarily or irrationally reached. [53 F. 3d at 601].

---

[1] DeBlasio subsequently filed a state court appeal which was dismissed as untimely.

As observed by the dissent, this "standard" is so broad that it will transform virtually every local or state land use dispute, however trivial, into a federal substantive due process claim. DeBlasio, supra, 53 F. 3d at 605. Thus, the Third Circuit's decision can only be expected to increase the number of frivolous cases requiring defense, and to encourage state and local decision makers to approve questionable land use applications in order to avoid liability for damages.

The Third Circuit began its substantive due process analysis by observing that "the issue of whether and when state-created property interests invoke substantive due process concerns has not been decided by the Supreme Court." DeBlasio, supra, 53 F.3d at 598 (citing Reich v. Beharry, 883 F.2d 239, 243 (3rd Cir. 1989)). It noted, however, that it had previously held that "not all property interests worthy of procedural due process protection are protected by the concept of substantive due process." Ibid. (quoting Reich, supra, 883 F. 2d at 244). Although Reich had not defined the set of property interests protected by the concept of substantive due process, it had suggested that "only fundamental property interests are worthy of such protection." Reich, supra, 883 F. 2d at 244 (emphasis added). This suggestion was consistent with previous statements by this Court and other Circuits that the Constitution has been viewed as implicitly protecting only fundamental interests under substantive due process. See Reno v. Flores, __ U.S. ___, 113 S. Ct. 1439, 1447, 123 L. Ed. 2d 1 (1993); Regents of University of Michigan v. Ewing, 474 U.S. 214, 229 (1985) (Powell, J., concurring); Mid-American Waste Systems, Inc. v. Gary, 49 F. 3d 286, 290 (7th Cir. 1995); Mangels v. Pena, 789 F. 2d 836, 839 (10th Cir. 1986).

Having set out this promising framework, the Third Circuit then inexplicably set a new substantive due process standard for land use cases which is completely at odds with

the standards set by other Circuits and is indistinguishable from the standard used in state courts to review land use decisions. It reached this anomalous result in alleged reliance on two prior Third Circuit cases in which the plaintiffs were held to have stated substantive due process claims, Bello v. Walker, 840 F.2d 1124 (3rd Cir. 1988), and Niederhiser v. Borough of Berwick, 840 F. 2d 213 (3d Cir. 1988). In Bello, the plaintiff established an entitlement to a building permit in state court and then alleged a violation of his substantive due process rights because local officials had intentionally interfered with issuance of the permit for partisan political or personal reasons wholly unrelated to planning. In Niederhiser, the Third Circuit held that a lessor who had been denied a permit to conduct a video store business in a location which had been continuously occupied by commercial uses for thirty years stated a substantive due process claim because there was evidence that the local decisionmakers were offended by the adult movies the store proposed to rent, thus arguably violating the owner's first amendment rights. Like the plaintiff in Bello, the Niederhiser plaintiff had also established his entitlement to the permit at issue by bringing a successful appeal in state court.

The Third Circuit glossed over the obvious factual differences between these cases and DeBlasio and simply held that it was consistent with Bello to conclude that ownership was a property interest worthy of substantive due process protection. It then went on to interpret Neiderhiser as implying that since "a lessor possesses a property interest worthy of substantive due process protection against arbitrary and irrational governmental deprivation," therefore "an actual property owner, a fortiori, possesses such an interest." DeBlasio, supra, 53 F. 3d at 601, n. 10.

Someone who does not have an ownership, leasehold or some equivalent financial interest would be unlikely to challenge a land use decision, and virtually all challenges to

adverse land use decisions assert that the decision was arbitrary or irrational in some respect. Moreover, when state courts void local land use decisions, they frequently do so on the basis that the decision was arbitrary, capricious, or unreasonable. See Bressman v. Gash, 131 N.J. 517, 529, 621 A. 2d 476, 481 (1993). Thus, under the Third Circuit's "standard," District Courts will be forced to hear every land use complaint they receive, assuming the property owner is astute enough to claim that some aspect of the decision-making process was "arbitrary." This "standard" is likely to force into federal court a plethora of claims that are routinely successfully dealt with by state courts and to require local and state officials to defend a huge number of new lawsuits, even if any error in the decision-making process has already been corrected at the state level.

By the same token, the Third Circuit's "standard" is likely to force into federal court significantly increased numbers of challenges to federal agency actions as well. Like the actions of state and local administrative agencies, the actions of federal agencies may be set aside after judicial review if they are arbitrary, capricious, or unreasonable. Motor Vehicle Manufacturers Association v. State Farm Mutual Automobile Insurance Co., 463 U.S. 29, 43 (1983). Thus, under the Third Circuit's approach, a property owner aggrieved by a federal action could also bring a substantive due process claim as a substitute for judicial appellate review simply by alleging that the action was "arbitrary."

District Courts should not hear routine land use disputes that do not contain issues of constitutional significance. Nevertheless, the Third Circuit's standard is likely to transform those courts into zoning boards of appeal, Village of Belle Terre v. Boraas, 416 U.S. 1, 13 (1974)(Marshall, J., dissenting), and thereby to place them in a completely inappropriate role which other Circuits have correctly decided should not be assumed. See Corn v.

Lauderdale Lakes, 997 F.2d 1369, 1389 (11th Cir. 1993); Yale Auto Parts, Inc. v. Johnson, 758 F. 2d 54 (2d Cir. 1985); RRI Realty Corp. v. Southampton, 870 F. 2d 911 (2d Cir. 1989), cert. denied 493 U.S. 893 (1989); Coniston Corp. v. Village of Hoffman Estates, 844 F. 2d 461, 465-66 (7th Cir. 1988).

State and local officials should be able to make land use decisions in good faith without the fear that they will be subject to a suit for damages under substantive due process if they do not render a decision that is completely favorable to the landowner. This Court thus should grant certiorari to prevent needless and disruptive federal oversight of local land use disputes.

B. The Approach to Substantive Due Process Taken by the Third Circuit Completely Disregards this Court's Jurisprudence.

As the Third Circuit correctly stated, this Court has never decided what specific property interest is required to mount a substantive due process claim alleging a deprivation of property. This lack of guidance stands in marked contrast to the Court's establishment of a property standard for procedural due process violations, Board of Regents v. Roth, 408 U.S. 564 (1972), and to its recent examination in Sandin v. Conner, ___ U.S. ___, 115 S.Ct. 2293 (1995), of the nature of liberty interests protected under the due process clause. Moreover, the lack of guidance in this area has become increasingly problematic in land use cases, as increasing numbers of landowners now routinely include substantive due process claims in challenges to adverse land use decisions, as well as procedural due process claims and takings claims.

In addition, the Third Circuit's decision is completely inconsistent with the approach taken by this Court in other substantive due process cases, including Sandin v. Conner, __ U.S. __, 115 S.Ct. 2293 (1995), Albright v. Oliver, __ U.S. __, 114 S. Ct. 807 (1994), and Paul v. Davis, 424 U.S. 693 (1975). In Sandin v. Conner, supra, for example, this Court held that a prisoner's punishment of discipline in segregated confinement did not present the type of atypical, significant deprivation creating a liberty interest, because the conditions of segregation mirrored the conditions to which the prisoner was already subject and the State later expunged his disciplinary record when it was determined that the discipline had been imposed improperly. The Court reached this result after focusing on the substantive nature of the deprivation, and after determining that the approach previously used under Hewitt v. Helms, 459 U.S. 460 (1983), was misguided because it had led to the involvement of federal courts in the day-to-day management of prisons and to a frequent squandering of judicial resources. This focus on the nature and quality of the deprivation had previously been followed in Paul v. Davis, supra, where this Court similarly determined that the liberty interests protected by the due process clause would not be construed so broadly as to transform the Fourteenth Amendment into a font of tort law to be superimposed on existing state tort systems.

Unlike the restrained approach used by this Court in Sandin and Paul, the approach used by the Third Circuit will transform the Fourteenth Amendment into a font of state and local land use law and needlessly involve the federal courts in day-to-day land use decisions that are better and more appropriately managed at the local level and by state courts. Moreover, the Third Circuit's approach will also require application of the nebulous standards of substantive due process in instances where the government conduct in the dispute is subject to the standards of explicit constitutional provisions, despite this

Court's holding in Albright v. Oliver, supra, that when the more explicit guarantees in the Bill of Rights provide protection against a particular sort of government behavior, claims should be analyzed under those guarantees and not under the "scarce and open-ended guideposts" of the substantive due process clause. Albright, supra, 114 S. Ct. at 812.[2] See also Nestor Colon Medina & Sucesores, Inc. v. Custodio, 964 F.2d 32, 46 (1st Cir. 1992).

In this case, DeBlasio essentially alleged a deprivation of procedural due process, by claiming that his request for a variance was not reviewed by an impartial tribunal. In addition, DeBlasio alleged a taking of his property for public use without just compensation. Both the District Court and the Third Circuit agreed that these claims were baseless and that state procedures were available to correct them in any event.

Consistent with Albright, the Third Circuit should have declined to apply the nebulous standards of substantive due process to DeBlasio's claims, and should instead have confined its analysis to the explicit applicable constitutional protections, namely the takings clause and procedural due process. The Third Circuit did not do so, however, but instead threw open the doors of the federal courts to virtually all land use disputes, no matter how trivial. Certiorari should be granted to correct this result.

---

[2]In Albright, the plaintiff alleged that his arrest without probable cause violated his substantive due process rights. However, the Court held that plaintiff's rights respecting a pretrial deprivation of liberty stemmed from the Fourth Amendment and should be evaluated under that constitutional provision, not under substantive due process.

C. The Third Circuit Erred In Allowing a Property Owner to Mount a Substantive Due Process Challenge to a Land Use Decision Without Pursuing Available State Remedies.

In Williamson County Planning Commission v. Hamilton Bank, 473 U.S. 172 (1985), this Court stated that a developer aggrieved by a local land use decision could not mount a substantive due process claim without first exhausting his administrative remedies, assuming that relief was available under substantive due process. Williamson, supra, 473 U.S. at 200. DeBlasio did not exhaust administrative remedies in this case, as he declined to timely object to the manner in which the ZBA proceedings were conducted or to timely pursue state remedies thereafter. Nevertheless, use of those procedures might well have rectified the procedural problem DeBlasio belatedly alleged occurred.

A property owner such as DeBlasio should not be allowed to ignore the remedies which are routinely used in local zoning disputes and to pursue the alternative route of a claim for damages under substantive due process. See Hartland Sportsman's Club v. Delafield, 35 F. 3d 1198, 1203 (7th Cir. 1994); Orange Lake Associates, Inc. v. Kirkpatrick, 21 F.3d 1214, 1224-25 (2d Cir. 1994). As this Court recognized in Parratt v. Taylor, 451 U.S. 527 (1981), if state law provides an adequate post-deprivation remedy for a deprivation of property caused by government officials, federal relief under 42 U.S.C. §1983 should not be available, particularly where it is claimed that the deprivation was caused by the failure to follow state procedures.

Here, the Third Circuit recognized the existence of both judicial review and a tort remedy under state law, but nevertheless reversed the dismissal of both DeBlasio's federal substantive due process claim and his state tort claims. This coupling of state tort law and federal substantive due process law will cause precisely the result this Court sought to avoid in Parratt: the transformation of any injury to property allegedly inflicted by a state actor into a federal due process claim, regardless of whether adequate state remedies exist or have been pursued. This approach clearly will encourage aggrieved landowners with adequate administrative and state remedies to deliberately by-pass those proceedings in favor of a federal substantive due process claim.

DeBlasio could have timely objected to the ZBA proceedings and could also have obtained judicial review in the state courts of the ZBA's decision. However, he failed to pursue those well established remedies and instead brought a federal substantive due process claim. Pursuant to Parratt, the Third Circuit should not have allowed this claim to proceed and thereby avoided unnecessary federal oversight, based on the existence of adequate state remedies. Cf. Nestor Colon, supra, 964 F.2d at 40; Licari v. Ferruzzi, 22 F.3d 344, 348 (1st Cir. 1994).

This Court's guidance is sorely needed to advise the Third Circuit and other Circuits of what property interests are protected under substantive due process, whether substantive due process may in fact be invoked in land use disputes subject to other explicit constitutional protections, and when, if ever, substantive due process may be used to superimpose federal land use law on existing state land use law. Accordingly, the petition for a writ of certiorari should be granted.

CONCLUSION

For the foregoing reasons, this Court should grant certiorari.

Respectfully submitted,

DEBORAH T. PORITZ
Attorney General of New Jersey

MARY C. JACOBSON
Assistant Attorney General

*RACHEL HOROWITZ
Deputy Attorney General
R.J. Hughes Justice Complex
CN 112
Trenton, New Jersey 08625
(609) 633-8119
Counsel for Amici States

*Counsel of Record

Dated: September 21, 1995